

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**ARNE D. SVOBODA,**

**Plaintiff,**

**V.**

**JO ANNE B. BARNHART,**  
**Commissioner of the Social Security**  
**Administration,**

**Defendant.**

**CASE NO. 4:06CV3020**

# MEMORANDUM AND ORDER

The Court has considered the Defendant's Motion to Remand and the brief filed in support of the motion. No opposition to the motion has been filed.

The Commissioner requests an order and final judgment reversing the decision of the Administrative Law Judge ("ALJ") and remanding this case to the Commissioner pursuant to sentence four of Section 205(g), codified at 42 U.S.C. § 405(g), for further proceedings. On remand, the ALJ will be asked to properly evaluate Plaintiff's drug addition and alcoholism ("DA&A"), and make a distinction between whether Plaintiff has a history of DA&A or whether Plaintiff was still suffering from substance abuse through the date of the ALJ's decision. The ALJ will be instructed to further evaluate the opinion of Diana Clyde, M.D., and to contact Dr. Clyde for a definitive opinion on whether any or all of Plaintiff's limitations remain, or would remain, in the absence of substance abuse. The ALJ will be asked to properly assess Plaintiff's credibility in accordance with *Polaski v. Heckler*, 739 F.2d 1320, 1322 (8th Cir. 1984) and Social Security Ruling 96-7p. The ALJ will also be instructed to properly determine Plaintiff's mental residual functional capacity in conjunction with the criteria "B " limitations.

For the reasons set forth herein,

IT IS ORDERED:

1. Defendant's Motion to Remand (Filing No. 26) is granted;
2. The case is reversed and remanded back to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with this Memorandum and Order; and
3. A separate judgment shall be entered.

Dated this 25<sup>th</sup> day of October, 2006.

BY THE COURT:

s/Laurie Smith Camp  
United States District Court